

2 I was going to Westchester Community College and I  
3 took two years of a building technology course.  
4 After that, I went into the army and I joined  
5 specifically a three year period to get into the  
6 core of engineers and I did not spend all that time  
7 in there but I did spend a good part of it in the  
8 core of engineers.

15 I started that in 1961 and I  
16 graduated in 1966 with a bachelors of civil  
17 engineering degree.

21 Q Could you tell the Court other than  
22 a civil engineer, are there other types of  
23 engineers?

1  
2 Q Could you describe for the Court  
3 your employment in the field of engineering since  
4 your license took place?

5 A I started in 19857 working for the  
6 New York City housing authority. We built, at that  
7 time, high rise apartment buildings for low income  
8 housing. I was involved in the engineering part, we  
9 would drive piles, steel piles to create  
10 foundations. I would monitor the driving of the  
11 piles and I examined foundations as they were being  
12 constructed, so that the soil or rock was  
13 acceptable for placing down foundation. I inspected  
14 the steel. Most of that work was designed by  
15 outside consultants but some of it was in-house  
16 design and I did some of the finishing work, like  
17 the brickwork and the interior portion and so on.

18 Somewhere along the line after  
19 about ten years or so, I moved over to the New York  
20 City Department of General Services. That  
21 constructed more diverse buildings. They built  
22 libraries, fire houses, police stations, community  
23 service centers and I worked with them as  
24 construction manager.

25 By that time, I guess I had gotten

1 my private practice. I mean, I used to  
2 run these projects on my own. Not only did I  
3 monitor all the construction going on but I was  
4 responsible for it. I handled the payments, and  
5 things of that nature.

6 Q Did there come a time that you left  
7 the employment of the City of New York?

8 A Yes, I took early retirement in  
9 1984. I started to work part time doing some  
10 engineering work on my own and I decided that after  
11 a point, I could actually make more money working  
12 on the outside. I already achieved a level of  
13 retirement benefits and I decided to go out on my  
14 own and I did that in 1984.

15 Q And you established your own  
16 practice in 1984; correct?

17 A Yes.

18 Q Tell us what you services you  
19 performed in your private practice?

20 A Presently, I do things like design  
21 small building structures. I work on projects like  
22 when a person wants to add a deck at the back of  
23 the house, plus when somebody wants to build a  
24 two-car garage, I'm working on that. I'm doing for  
25 another person who wants to do some work in

1 Greenburgh, I'm doing site surveys, doing a little  
2 wetlands survey and slope survey.

3 I do building inspections and house  
4 inspections. I do design of structures. I  
5 investigate retaining walls, such as the one in  
6 question. I also designed retaining walls, so I  
7 have right now sort of a diverse practice and I  
8 keep my fingers involved in many things and I  
9 consult with others and I take required engineering  
10 renewal courses, so I have to stay up on a great  
11 deal of what is going on.

12 Q In connection with your practice as  
13 a professional engineer since 1984 forward, have  
14 you ever had occasion to testify in court?

15 A Yes, I have.

16 Q How many times?

17 A I'm going who estimate maybe five  
18 or six times.

19 Q And in what capacity?

20 A As an expert witness for either the  
21 Plaintiff or the Defendant.

22 Q In the field of course of civil  
23 engineering?

24 A Yes, engineering topics.

25 Q Do you have memberships in any

1 professional society.

2 A I belong to the National  
3 Professional Engineering Society and American  
4 Society of Civil Engineers. I belong to several  
5 home inspection organizations, such as the national  
6 academy of building inspectors. I belong to an  
7 organization called ASHI. Those are about the  
8 primary organizations I'm affiliated with.

9 Q Mr. Annunziata, did you prepare a  
10 curriculum vite which sets forth your education  
11 employment, experience in the field of engineering?

12 A Yes, I do I have it.

13 MRS. MULLINS: May I approach?

14 THE COURT: Yes.

15 MRS. MULLINS: And the record will  
16 reflect that I handed Mr. Annunziata a copy  
17 of a curriculum vite with his name on it.

18 Q That is that what you prepared and  
19 forwarded to me?

20 A That is the most resent one that we  
21 have, yes.

22 MRS. MULLINS: I would ask that it  
23 be accepted into evidence.

24 THE COURT: Please hand it to Mrs.  
25 Fiore to take a look at it.

1  
2 MRS. FIORE: No objection.

3 THE COURT: I'll describe it and  
4 admit it in evidence.

5 (Whereupon, a document was received  
6 and marked as Defendant's Exhibit A, in  
7 evidence, as of this date.)

8 THE COURT: We have Defendant's  
9 Exhibit A, which is a copy of the  
10 curriculum vite of John J. Annunziata. It's  
11 a one-page document and this now in  
12 evidence.

13 MRS. MULLINS: Thank you.

14 Q Mr. Annunziata, are you being paid  
15 by Mr. Rotenberg and in connection with your  
16 services in this case?

17 A Yes.

18 Q Are you charging an hourly rate for  
19 your services?

20 A Yes.

21 Q What is your hourly rate?

22 A \$175.00 per hour.

23 MRS. MULLINS: Your Honor, as a  
24 result of Mr. Annunziata's testimony I  
25 would ask that he be qualified by the Court

1  
2 engineering.

3 THE COURT: Okay, Mrs. Fiore do you  
4 wish to be heard.

5 MRS. FIORE: No objection, Your  
6 Honor.

7 THE COURT: All right, Mr. Annunziata  
8 you are now qualified as and expert witness  
9 in the area of civil engineering, please  
10 continue with the answering questions.

11 Q Mr. Annunziata, did there come a  
12 time that were you contacted by my office in  
13 connection with this case?

14 A Yes.

15 Q Do you recall when that was?

16 A Less than a month ago, about a  
17 month ago.

18 Q What was your purpose in being  
19 involved in the case?

20 A Well, it was suggested that I take  
21 a look at a retaining wall at the rear of 5  
22 Huguenot Street in Larchmont and I did do that.

23 Q And in connection with your  
24 services in evaluating this wall, did you  
25 personally inspect the premises including the wall?



1 Q Did you reduce your writing notes  
2 to a written document?

3 A Yes.

4 Q Do you have a copy of your report  
5 with you?

6 A I have it in my brief case.

7 MRS. MULLINS: I have a copy here,  
8 Your Honor.

9 THE COURT: Fine.

10 A I will recognize it.

11 Q I will show this to the witness.

12 A This is the document that I issued.

13 Q Did you furnish me with any other  
14 written materials other than the curriculum vite  
15 and this report?

16 A Say that again.

17 Q Did you if furnish me or anyone  
18 else with any other written documents?

19 A No, I did not.

20 MRS. MULLINS: I will show it to  
21 Mrs. Fiore.

22 MRS. FIORE: I have a copy.

23 MRS. MULLINS: I ask that it be  
24 offered into evidence.

25 THE COURT: Is there any objection to

this document, it appears to be letter prepared by Mr. Annunziata, is there any objection.

MRS. FIORE: The report mentions photos enclosed, as long as the record would reflect that photographs are not part of the report then --

THE COURT: That is correct, this particular document that is coming into evidence is just two type written pages the exhibit itself does not include pictures.

MRS. FIORE: Correct.

THE COURT: This document is now in evidence as Defendant's Exhibit B. We will have it marked.

(Whereupon Defendant's Exhibit B was received in evidence.)

MRS. MULLINS: Thank you, Your Honor.

THE COURT: Please continue.

Q Could you describe for the Court the wall in question, from the Lafayette side?

A From the Lafayette side, you could see a stone wall on the bottom, which is perhaps two-thirds of the height of the wall, possibly three quarters and above that, there is a concrete

1  
2  
3 fact, the block wall is old as well. The stone wall  
4 through it's life developed some cracks but it's a  
5 heavy gravity wall made of stone.

6 During the life of that wall and

7 not at the time that I could identify, some efforts  
8 were made to try to resecure that wall, there were  
9 steel rods and plates driven through the stone  
10 wall.

11 There were also openings created to  
12 allow for drainage to occur. That seemed more, as  
13 you look from the Lafayette side into the wall on  
14 the right side of wall, the left side of the wall,  
15 which is the larger portion does not have that type  
16 of work as I recall.

17 The block wall above is about seven  
18 courses of concrete block. There are some limited  
19 cracks in the wall. There has been a minor amount  
20 of displacement. The middle section or the middle  
21 left session slid out about three or four inches or  
22 something like that.

23 Either as part of the original  
24 construction, there were deadman or rods that were  
25 put through the wall with plates facing the